

53-7-504 Offenses -- Civil penalties -- Penalty money to be deposited in the Fire Academy Support Account.

- (1)
 - (a) A person may not sell, offer for sale, or distribute a novelty lighter in this state.
 - (b) A person may not import a novelty lighter into this state for the purpose of selling or distributing the novelty lighter within this state.
 - (c) A person may not possess a novelty lighter in inventory for the purpose of selling or distributing the novelty lighter within this state.
- (2)
 - (a) The state fire marshal may assess a civil penalty against a person who violates Subsection (1) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
 - (b) The civil penalty for a violation of Subsection (1) may not exceed:
 - (i) \$10,000 for the importation of novelty lighters;
 - (ii) \$1,000 if the person acts as a wholesaler of novelty lighters or distributes novelty lighters by means other than distribution directly to consumers; and
 - (iii) \$500 if the person is:
 - (A) a retail seller of novelty lighters; or
 - (B) a person distributing novelty lighters, other than as a manufacturer, importer, or wholesaler.
- (3) If a person continues to violate this section after the state fire marshal gives the person written notice of a violation, each day that the violation continues after written notice is given is a separate offense subject to a civil penalty.
- (4)
 - (a) For purposes of imposing civil penalties, it is prima facie evidence that a lighter is a novelty lighter if the lighter is listed by the state fire marshal as a novelty lighter under Section 53-7-503, or is of a class or type of lighter listed by the state fire marshal as a novelty lighter.
 - (b) Listing by the state fire marshal is not a requirement for a determination that a lighter is a novelty lighter.
- (5) All money collected from civil penalties under this section shall be deposited in the Fire Academy Support Account created in Section 53-7-204.2.
- (6) A person may seek judicial review of a final agency action under this part as provided in Title 63G, Chapter 4, Administrative Procedures Act.

Enacted by Chapter 376, 2010 General Session